THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date: 05-03-2007

WRIT PETITION No. 2514 OF 2007

BETWEEN:

Smt.Ameena Begum

…Petitioner

And

The Superintendent of Police, Khammam, Khammam District and others.

…Respondents

ORDER:

The petitioner seeks to issue a writ of Mandamus declaring the action of respondents 1 and 2 in not investigating into Crime No.26 of 2007 on the file of second respondent despite registering the same on 6-2-2007 as illegal and arbitrary.

It is stated that the petitioner has filed a private complaint under Section 200 of the Criminal Procedure Code against the respondents 3 to 7 on the file of the Additional Judicial Magistrate of First Class, Kothagudem, alleging that they committed cognizable offence and with dishonest intention they cheat the petitioner and avoided to refund the amount of Rs.7,93,488/- taken from him.

A counter has been filed by the second respondent stating that on receiving the complaint from the Court, he registered the same as Crime No.26 of 2007 under Section 420 of the Indian Penal Code and took up investigation. It is stated that the investigation has already been completed. The petitioner has filed a suit in O.S.No.7 of 2007 and also filed I.A.No.15 of 2007 for recovery of Rs.7,93,488/- from

respondents 3 to 7. It is stated that the investigation conducted so far revealed that the dispute between the petitioner and the respondents 3 to 7 is civil in nature and therefore after obtaining necessary permission from the competent authorities, he will file final report before the concerned Court by following due process of law.

I am not inclined to express any opinion as to whether the said action of the respondents 3 to 7 in canceling the agreement of sale unilaterally without paying the advance amount paid by the petitioner is purely in civil nature and also whether there is an element of cheating. However in respect of the said transaction, civil as well as criminal proceedings can be initiated. If the Police files a report, referring the complaint of the petitioner as civil in nature, it is always open for the petitioner to file a private complaint under Section 200 read with Section 190 of the Criminal Procedure Code apart from proceeding to settle the disputes in the civil Court for appropriate relief. However, the prayer in the writ petition is to expedite the investigation. As it is stated that the investigation has already been completed, no further orders required to be passed in this writ petition.

Accordingly, the writ petition is dismissed. No costs.

V.ESWARAIAH, J

Date: 05-03-2007.

Shr.